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SENATE BILL 81

50TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2011

INTRODUCED BY

Dede Feldman

AN ACT

RELATING TO TAXATION; INCREASING THE RATE OF THE TOBACCO PRODUCTS TAX; CLARIFYING THE DEFINITION OF "TOBACCO PRODUCTS"; ESTABLISHING A MINIMUM TAX ON TOBACCO PRODUCTS SOLD IN SMALL QUANTITIES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. Section 7-12A-2 NMSA 1978 (being Laws 1986, Chapter 112, Section 3, as amended) is amended to read:

"7-12A-2. DEFINITIONS.--As used in the Tobacco Products Tax Act:

A. "department" means the taxation and revenue department, the secretary or any employee of the department exercising authority lawfully delegated to that employee by the secretary;

B. "distribute" means to sell or to give;

underscoring material = new
~~[bracketed material] = delete~~

underscored material = new
[bracketed material] = delete

1 C. "engaging in business" means carrying on or
2 causing to be carried on any activity with the purpose of
3 direct or indirect benefit;

4 D. "first purchaser" means a person engaging in
5 business in New Mexico who manufactures tobacco products or who
6 purchases or receives on consignment tobacco products from any
7 person outside of New Mexico, which tobacco products are to be
8 distributed in New Mexico in the ordinary course of business;

9 E. "person" means any individual, estate, trust,
10 receiver, cooperative association, club, corporation, company,
11 firm, partnership, joint venture, syndicate, limited liability
12 company, limited liability partnership, other association or
13 gas, water or electric utility owned or operated by a county or
14 municipality or other entity of the state; "person" also means,
15 to the extent permitted by law, a federal, state or other
16 governmental unit or subdivision or an agency, department or
17 instrumentality;

18 F. "product value" means the amount paid, net of
19 any discounts taken and allowed, for tobacco products or, in
20 the case of tobacco products received on consignment, the value
21 of the tobacco products received or, in the case of tobacco
22 products manufactured and sold in New Mexico, the proceeds from
23 the sale by the manufacturer of the tobacco products; ~~and~~

24 G. "retail unit" means a single lot of a tobacco
25 product that can be sold, such as a package, plug, loose

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underscored material = new
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1 tobacco sold by weight, volume, quantity or other measure, a
2 cigar or a unit of a tobacco product that is not considered a
3 cigarette for purposes of the Cigarette Tax Act; and

4 [G.] H. "tobacco product" means any product, other
5 than cigarettes, made from or containing tobacco, including
6 cigars or any product containing tobacco that is intended or
7 expected to be consumed without being combusted, unless it has
8 been approved by the United States food and drug administration
9 as a tobacco use cessation product and is being marketed and
10 sold for that approved purpose."

11 SECTION 2. Section 7-12A-3 NMSA 1978 (being Laws 1986,
12 Chapter 112, Section 4, as amended) is amended to read:

13 "7-12A-3. IMPOSITION AND RATE OF TAX--DENOMINATION AS
14 "TOBACCO PRODUCTS TAX"--DATE PAYMENT OF TAX DUE.--

15 A. For the privilege of engaging in business to
16 manufacture or [acquisition of] acquire tobacco products in New
17 Mexico to be distributed in the ordinary course of business and
18 for the consumption of tobacco products in New Mexico, there is
19 imposed an excise tax at the rate of [twenty-five] fifty-seven
20 percent of the product value of the tobacco products; provided
21 that all tobacco products sold in a retail unit of less than
22 one and two-tenths ounces shall be taxed at a minimum rate of
23 one dollar sixty-six cents (\$1.66) per retail unit.

24 B. The tax imposed by Subsection A of this section
25 may be referred to as the "tobacco products tax".

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1 C. The tobacco products tax shall be paid by the
2 first purchaser on or before the twenty-fifth day of the month
3 following the month in which the taxable event occurs."

4 SECTION 3. EFFECTIVE DATE.--The effective date of the
5 provisions of this act is July 1, 2011.

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